

STATE OF CALIFORNIA  
STATE WATER RESOURCES CONTROL BOARD

**DIVISION OF WATER RIGHTS**

**ORDER**

Application 30242 Permit 20834

**ORDER APPROVING CHANGE TO THE POINT OF DIVERSION, ADDITION OF  
NEW PERMIT CONDITIONS, AND AMENDING THE PERMIT**

**WHEREAS:**

1. Permit 20834 was issued to Shafer Family Partnership on April 2, 1996 pursuant to Application 30242.
2. A petition to change point of diversion was filed with the State Water Resources Control Board (SWRCB) on October 29, 1997 and the SWRCB has determined that good cause for such change has been shown.
3. California Sportfishing Protection Alliance (CSPA) filed an environmental protest to the petition on March 25, 1998.
4. On July 20, 1998 permittee amended the petition to collect water storage in an offstream facility instead of an onstream reservoir. This amendment alleviated the California Department of Fish and Game's concerns. The maximum diversion rate of water to offstream storage will be three (3) cubic feet per second.
5. On September 30, 1998, CSPA's protest was dismissed by the inclusion of a minimum two (2) cubic foot per second bypass condition.
6. The SWRCB has determined that the petition for change does not constitute the initiation of a new right nor operate to the injury of any other lawful user of water.
7. Fish, wildlife, and plant species have been or may be listed under the federal Endangered Species Act and/or the California Endangered Species Act.

**NOW, THEREFORE, IT IS ORDERED THAT:**

1. Location of the point of diversion is changed to read as follows:

By California Coordinate System, Zone, 2 North 274,000 feet and East 1,906,700 feet, within the NE¼ of NW¼ of projected Section 32, T7N, R4W, MDB&M.

2. Paragraph 5 of the permit is changed to read as follows:

The water appropriated shall be limited to the quantity which can be beneficially used and shall not exceed 30 acre-feet per annum collected from November 1 of each year to May 14 of the succeeding year. (0000005)

This permit does not authorize collection of water to storage outside of the specified season to offset evaporation and seepage losses for any other purpose. (000005I)

The maximum rate of diversion to offstream storage shall not exceed three (3) cubic feet per second. (000005J)

3. Permittee is subject to all terms and conditions attached to Permit 20834 that was approved by the SWRCB on April 22, 1996.

4. Addition of an offstream storage measuring device term to read as follows:

Permittee shall install and maintain devices satisfactory to the State Water Resources Control Board to measure the rate and quantity of water diverted into the reservoir from Unnamed Stream tributary to the Napa River. (0000046)

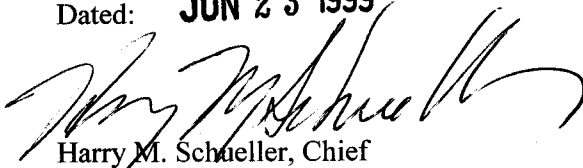
5. Addition of an endangered species term to read as follows:

This permit does not authorize any act which results in the taking of a threatened or endangered species or any act which is not prohibited, or becomes prohibited in the future, under either the California Endangered Species Act (Fish and Game Code sections 2050 to 2097) or the federal Endangered Species Act (16 U.S.C.A. sections 1531 to 1544). If a "take" will result from any act authorized under this water right, the permittee shall obtain an incidental take permit prior to construction or operation. Permittee shall be responsible for meeting all requirements of the applicable Endangered Species Act for the project authorized under this permit. (0000014)

6. Addition of minimum bypass flow term to read as follows:

For the protection of fish and wildlife, permittee shall bypass a minimum of two (2) cubic feet per second from November 1 to May 14 of the succeeding year. The total stream flow shall be bypassed whenever it is less than the designated amount. (0000060)

Dated: **JUN 23 1999**



Harry M. Schueller, Chief  
Division of Water Rights

STATE OF CALIFORNIA  
CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY  
STATE WATER RESOURCES CONTROL BOARD

**DIVISION OF WATER RIGHTS**

**PERMIT FOR DIVERSION AND USE OF WATER**

**PERMIT 20834**

Application 30242 of Shafer Family Partnership,

c/o Doug Shafer, 6154 Silverado Trail, Napa, CA 94558

filed on April 12, 1993, has been approved by the State Water Resources Control Board  
SUBJECT TO PRIOR RIGHTS and to the limitations and conditions of this permit.

Permittee is hereby authorized to divert and use water as follows:

1. Source:

Tributary to:

Unnamed Stream

Napa River thence

San Pablo Bay

2. Location of point of diversion:	40-acre subdivision of public land survey or projection thereof	Section	Township	Range	Base and Meridian
By California Coordinate System, Zone 2 North 275,000 feet and East 1,907,000 feet	SW $\frac{1}{4}$ of SE $\frac{1}{4}$	29	7N	4W	MD

County of Napa

3. Purpose of use:	4. Place of use:	Section	Township	Range	Base and Meridian	Acres
Fire Protection	Shafer Reservoir within SW $\frac{1}{4}$ of SE $\frac{1}{4}$	29	7N	4W	MD	
Irrigation	SE $\frac{1}{4}$ of SW $\frac{1}{4}$	29	7N	4W	MD	8
	SW $\frac{1}{4}$ of SE $\frac{1}{4}$	29	7N	4W	MD	10
	NE $\frac{1}{4}$ of NW $\frac{1}{4}$	32*	7N	4W	MD	21
	NW $\frac{1}{4}$ of NE $\frac{1}{4}$	32**	7N	4W	MD	12
					TOTAL	51
* projected fractional						
** fractional						

The place of use is shown on map on file with the State Water Resources Control Board.

5. The water appropriated shall be limited to the quantity which can be beneficially used and shall not exceed 30 acre-feet per annum to be collected from November 1 of each year to May 14 of the succeeding year.

(0000005)

This permit does not authorize collection of water to storage outside of the specified season to offset evaporation and seepage losses for for any other purpose.

(000005I)

6. The amount authorized for appropriation may be reduced in the license if investigation warrants.

(0000006)

7. Construction work shall begin within two years of the date of this permit and shall thereafter be prosecuted with reasonable diligence, and if not so commenced and prosecuted, this permit may be revoked.

(0000007)

8. Construction work shall be completed by December 31, 1998.

(0000008)

9. Complete application of the water to the authorized use shall be made by December 31, 1999.

(0000009)

10. Progress reports shall be submitted promptly by permittee when requested by the State Water Resources Control Board until a license is issued.

(0000010)

11. Permittee shall allow representatives of the State Water Resources Control Board and other parties, as may be authorized from time to time by said Board, reasonable access to project works to determine compliance with the terms of this permit.

(0000011)

12. Pursuant to California Water Code Sections 100 and 275, and the common law public trust doctrine, all rights and privileges under this permit and under any license issued pursuant thereto, including method of diversion, method of use, and quantity of water diverted, are subject to the continuing authority of the State Water Resources Control Board in accordance with law and in the interest of the public welfare to protect public trust uses and to prevent waste, unreasonable use, unreasonable method of use or unreasonable method of diversion of said water.

The continuing authority of the Board may be exercised by imposing specific requirements over and above those contained in this permit with a view to eliminating waste of water and to meeting the reasonable water requirements of permittee without unreasonable draft on the source. Permittee may be required to implement a water conservation plan, features of which may include but not necessarily be limited to (1) reusing or reclaiming the water allocated; (2) using water reclaimed by another entity instead of all or part of the water allocated; (3) restricting diversions so as to eliminate agricultural tailwater or to reduce return flow; (4) suppressing evaporation losses from water surfaces; (5) controlling phreatophytic growth; and (6) installing, maintaining, and operating efficient water measuring devices to assure compliance with the quantity limitations of this permit and to determine accurately water use as against reasonable water requirements for the authorized project. No action will be taken pursuant to this paragraph unless the Board determines, after notice to affected parties and opportunity for hearing, that such specific requirements are physically and financially feasible and are appropriate to the particular situation.

The continuing authority of the Board also may be exercised by imposing further limitations on the diversion and use of water by the permittee in order to protect public trust uses. No action will be taken pursuant to this paragraph unless the Board determines, after notice to affected parties and opportunity for hearing, that such action is consistent with California Constitution Article X, Section 2; is consistent with the public interest; and is necessary to preserve or restore the uses protected by the public trust. (0000012)

13. The quantity of water diverted under this permit and under any license issued pursuant thereto is subject to modification by the State Water Resources Control Board if, after notice to the permittee and an opportunity for hearing, the Board finds that such modification is necessary to meet water quality objectives in water quality control plans which have been or hereafter may be established or modified pursuant to Division 7 of the Water Code. No action will be taken pursuant to this paragraph unless the Board finds that (1)adequate waste discharge requirements have been prescribed and are in effect with respect to all waste discharges which have any substantial effect upon water quality in the area involved, and (2)the water quality objectives cannot be achieved solely through the control of waste discharges. (0000013)

14. Permittee shall install and maintain an outlet pipe of adequate capacity in the dam as near as practicable to the bottom of the natural stream channel in order that water entering the reservoir which is not authorized for appropriation under this permit can be released. Before starting construction, permittee shall submit plans and specifications of the outlet pipe to the Chief of the Division of Water Rights for approval. Before storing water in the reservoir, permittee shall furnish evidence which substantiates that the outlet pipe has been installed in the dam. Evidence shall include photographs showing completed works or certification by a registered Civil or Agricultural Engineer. (0050043)

15. During the period between March 15 and May 14, water may be collected to storage under this permit only when there are no restrictions imposed by the watermaster on diversion from the Napa River.

(0570900)

16. Prior to construction, permittee shall submit a copy of the approved Erosion Control Plan, required by the Napa County Conservation Ordinance, and a copy of the required Grading Permit to the Chief of the Division of Water Rights.

(0400500)

This permit is issued and permittee takes it subject to the following provisions of the Water Code:


Section 1390. A permit shall be effective for such time as the water actually appropriated under it is used for a useful and beneficial purpose in conformity with this division (of the Water Code), but no longer.

Section 1391. Every permit shall include the enumeration of conditions therein which in substance shall include all of the provisions of this article and the statement that any appropriator of water to whom a permit is issued takes it subject to the conditions therein expressed.

Section 1392. Every permittee, if he accepts a permit, does so under the conditions precedent that no value whatsoever in excess of the actual amount paid to the State therefor shall at any time be assigned to or claimed for any permit granted or issued under the provisions of this division (of the Water Code), or for any rights granted or acquired under the provisions of this division (of the Water Code), in respect to the regulation by any competent public authority of the services or the price of the services to be rendered by any permittee or by the holder of any rights granted or acquired under the provisions of this division (of the Water Code) or in respect to any valuation for purposes of sale to or purchase, whether through condemnation proceedings or otherwise, by the State or any city, city and county, municipal water district, irrigation district, lighting district, or any political subdivision of the State, of the rights and property of any permittee, or the possessor of any rights granted, issued, or acquired under the provisions of this division (of the Water Code).

Dated: April 2, 1996

STATE WATER RESOURCES CONTROL BOARD

  
for Chief, Division of Water Rights